***United States Court of Appeals***

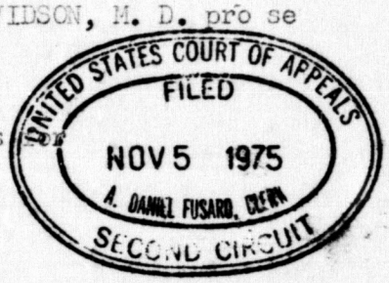
***for the Second Circuit***


# APPELLANT'S BRIEF & APPENDIX

75-7544

To be argued by

ARTHUR T. DAVIDSON, M. D. pro se




United States Court of Appeals for
the
Second Circuit

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ARTHUR T. DAVIDSON, M. D.,

Plaintiff-Appellant

CIVIL ACTION
DOCKET #75 Civ. 7544

-against-

DONALD F. TAPLEY, M. D., Dean
Columbia University College of Physicians and
Surgeons,

and

KEITH REEMTSMA, M. D., Director,
Department of Surgery Columbia University
College of Physicians and Surgeons,

Defendant-Appellee

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BRIEF FOR PLAINTIFF-APPELLANT

and Appendix -

Arthur T. Davidson, M.D., pro se
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Brooklyn, New York

Arthur T. Davidson, M.D. pro se
of Counsel

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## THE PRELIMINARY STATEMENT

This is an appeal by the Plaintiff-Appellant from a judgment rendered on August 20, 1975, in favor of the Defendant-Appellees in an action by the Plaintiff-Appellant for an order directing Defendant-Appellees to reemploy Plaintiff-Appellant as Chief, Section B, General Surgical Services, Harlem Hospital.

The matter was heard before Mr. Justice Dudley B. Bonsal, United States District Court, Southern District of New York

## QUESTIONS PRESENTED

Question 1: Whether continuous unlawful employment practices are time-barred under the provisions of the Civil Rights Act of 1964, as amended?

Question 2: Whether relief that is equitable in nature and is the remedy for a federally created right is time-barred under the provisions of 42 U.S.C. § 1983?

Question 3: Whether thereis a property interest in the continuance tenured employment that is protected by the Fourteenth Amendment to the United States Constitution?

STATEMENT OF FACTS

In March, 1964, Plaintiff-Appellant was appointed an Attending Surgeon, General Surgery, Harlem Hospital, with life tenure.

Plaintiff-Appellant faithfully, fully, and in a highly satisfactory manner for a period of approximately three years performed all of the duties associated with this position.

Plaintiff-Appellant is an eminently qualified physician who was licensed to practice medicine in the State of New Yorkin September 1948; is a Board certified General Surgeon; and Assistant Clinical Profesor of Surgery at the Albert Einstein College of Medicine, New York, New York, a cancer research scientist with cancer research laboratories at Maimonides Medical Center, Brooklyn, New York, and the Methodist Hospital, Brooklyn, New York; and a June, 1974, graduate of St. John's University School of Law.

In May, 1964, Columbia University entered into an agreement with the professional staff of Harlem Hospital. In the Spring of 1967, Columbia University became involved in a dispute with New York University over the amount of bed space to be allotted to Columbia University at Bellevue Hospital. As a result of this dispute Columbia University decided to withdraw from Bellevue Hospital and transfer the majority of its physicians to Harlem Hospital.

In May 1967, Plaintiff-Appellant was informed that Dr. J. Ferrer, the newly appointed White Director of Surgery at Harlem Hospital intended to bring a number of surgeons with him from Bellevue Hospital to Harlem Hospital; in particular, one White surgeon, Dr. P. Miedel, who Dr. Ferrer was most desirous of placing in a very high position at Harlem Hospital.

Plaintiff-Appellant in June 1967 discussed the plans of Columbia Universith to replace him with a White surgeon with Dr. H. Houston Merritt, Dean of the College of Physicians and Surgeons of Columbia University. Dean Merritt told Plaintiff-Appellant he was going to discuss the situation very

frankly with him; that since both Dr. Ferrer and Dr. Wiedel were White, and Plaintiff-Appellant was Black, he would have to support the removal even though it was unfair, racially motivated and without cause. Plaintiff-Appellant pointed out to Dean Merritt that Dr. Wiedel will have a dual appointment, one at Presbyterian Hospital and that of Section Chief of Harlem Hospital. Dean Merritt replied that Plaintiff's analysis was indisputable and irrefutable. However, since he and Plaintiff-Appellant both being mature adults, should appreciate the fact that regardless of the justice of merit of the situation, if the difference was between a Black and White participant, the unspoken code was the White point of view would always prevail.

Plaintiff sought aid from the New York City Commission on Human Rights in Plaintiff-Appellant's aim to retain his position as Chief of Section B, General Surgery, Harlem Hospital, and in connection therewith Plaintiff-Appellant engaged Counsel. Following several meetings between Plaintiff-Appellant, Counsel for Plaintiff-Appellant, officials of Columbia University, Counsel for Columbia University, and members of the New York City Commission on Human Rights, an agreemwnt was reached whereby Plaintiff was to spend a year at Columbia University and then return to Harlem Hospital "as Chief of a surgical section or in some other mutually agreeable, equivalent position."

However, at the end of this year, Columbia University refused to honor its agreement with Plaintiff-Appellant and requested that Plaintiff-Appellant spend an additional year at Columbia University.

In the Summer of 1969, Columbia University offered to employ Plaintiff-Appellant in a lesser position of employment at Harlem Hospital. Plaintiff Appellant pointed out that his agreement called for his return to the clinical service at Harlem Hospital as Chief of a surgical Section or in some other mutually agreeable, equivalent position. Columbia University then informed Plaintiff-Appellant that is insistence on his contractual rights as a Black surgeon was making it difficult for the White Director to control the other

Black doctors. Therefore, Columbia University was firing him from his employment as of September 30, 1969, and would cease assigning him any duties and terminate his salary.

Beginning in October 1969, and continuing to December 1972, Plaintiff made repeated periodic requests to Columbia University for reemployment and reinstatement at Harlem Hospital in his previous capacity. Each request was denied.

On February 14, 1973, Plaintiff filed a charge of unlawful employment practices, in violation of Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972). In a hearing before the West 125th Street branch of the New York State Division of Human Rights, the Hearing Officer ruled that Plaintiff had not formally applied to Columbia University for assignment to the Surgical Staff of Harlem Hospital. This finding by the Hearing Officer was an error because: (a) Plaintiff-Appellant had made written application to the White Director of Surgery at Harlem Hospital and had received a reply; and (b) as Plaintiff-Appellant had, and still has, life tenure as an Attending Surgeon at Harlem Hospital, a formal application for staff membership was unnecessary.

On March 19, 1974, Plaintiff-Appellant filed a complaint in the United States District Court, Southern District of New York alleging discrimination in employment due to race. Jurisdiction was based on Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 ("Title VII"). In their answer Counsel for Defendants admitted that Plaintiff-Appellant had life tenure in his employment as an Attending Surgeon, General Surgery, Harlem Hospital. However, Counsel for Defendants contended that the necessary parties at Columbia University were not names in the suit.

On November 25, 1974, Plaintiff-Appellant moved for an order directing Defendants to assign Plaintiff-Appellant to surgical duties at Harlem Hospital. This motion for summary judgment was made under Rule 56 of the Federal Rules of

Civil Procedure.

Defendants opposed this motion on the grounds of: one, lack of subject matterjurisdiction; two, failure to join the necessary parties. Plaintiff-Appellant in his Memorandum of Law pointed out to the Court that one, Rule 19 of the Federal Rules of Civil Procedure requires that a necessary party be jointed in an action; two, U. S. District Courts do have subject matter jurisdiction of cases brought under Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972.

Judge Bonsal in his decision denied Plaintiff-Appellant's motion for summary judgment because "the Court finds that defendant raises several material issues of fact which should be resolved at trial." He found that U. S. District Courts do have subject matter jurisdiction in these actions. However, he dismissed defendants motion with leave to Plaintiff-Appellants to serve and file an amended complaint within twenty days from the date of order to be entered herein, which amended complaint shall include the same defendants who were parties in the EEOC and Division proceedings, and which shall detail sufficient facts to show that the Plaintiff-Appellant is entitled to relief.

This complaint--75-Civ. 1090 is the complaint that the Court gave Plaintiff-Appellant leave to file in Davidson v. Quash (75 Civ. 1262). The Complaint was filed within twenty days from the date of the order's entry; included the ame Defendants who were parties in the EEOC and Division proceedings; and detailed the facts showing the Plaintiff's entitlement to relief.

In an opinion dated August 20, 1975, Judge Bonsal dismissed the Complaint that he, himself, had given Plaintiff-Appellant leave to file. He ruled that the charges were not timely filed with the EEOC. To reach this conclusion, Judge Bonsal made the erroneous assumption that the discriminatory acts of employment were not "continuous." However, in the next to last para-

graph of his Memorandum of Decision, he noted that Plaintiff-Appellant apparently had a meritorious action in the State Court. Plaintiff-Appellant and his attorney in this action made repeated and continuous requests to Columbia University through their attorneys for reemployment and assignment to duties to Harlem Hospital of Plaintiff-Appellant.

## SUMMARY OF ARGUMENT

1. Defendants actions are continuous and therefore are not time-barred under the provisions of the Civil Rights Act of 1964, as amended.

2. The relief sought is equitable and therefore is not time-barred under the provisions of 42 U.S.C. § 1983.

3. Tenured employment is a "property interest" that is protected by the Fourteenth Amendment to the United States Constitution.

POINT I

DEFENDANTS ACTIONS ARE CONTINUOUS AND THEREFORE ARE NOT TIME-BARRED UNDER THE PROVISIONS OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

The United States District Courts and United States Courts of Appeals have uniformly and consistently held that where the unlawful employment practice is a continuing practice the, failure to file within the prescribed time is no bar to maintenance of the action. In Cox v. United States Gypsum Co. the Court held "that where Plaintiffs placed work "continuing "after date of last discrimination specified in charges which referred to discriminatory layoff and made no explicit reference to recent recalls or new hiring, fact that layoff was more than 90 days prior to filing of charges did not preclude action under discriminatory employment practice provisions of Civil Rights Act."

Cox v. United States Gypsum Company.
409 F.2d 289 (1969).

In Bartmess v. Drewrys, the Court emphatically stated that "it is settledlaw that the ninety day limitation is no bar when a continuing practice of discrimination is being challenged rather than a single, isolated discriminatory act."

Bartmess v. Drewrys, [illegible] F.2d 1136 (1971).

Defendant-Appellees, in their Memorandum of Law rely on Phillips v. Columbia Gas of West Virginia, Inc., to supporttheir contention that the complaint is time barred. However, a reading of the Court's decision in this case reveals that the Plaintiff never made a charge of continuing pattern of discrimination "before the Equal Employment Opportunity Commission or in the informal charges presented to the West Virginia Human Rights Commission. Indeed, Plaintiff failed to allege even racial discrimination before those commissions, much less a continuing pattern of the practice of racial

discrimination. For that reason, among others, the West Virginia Human Rights Commission and the Equal Employment Opportunity Commission correctly informed Plaintiff that they had no jurisdiction over his charge."

Defendant-Appellees also rely on Gordon v. Baker Protective Services, Inc. Again, the Court emphatically stated "if an alleged violation is deemed to be "continuing" the statutory period is of little practical effect."

POINT II

THE RELIEF SOUGHT IS EQUITABLE AND THEREFORE IS NOT TIME-BARRED UNDER THE PROVISIONS OF 42 U.S.C. § 1983.

It is a long settled rule in the Federal Judicial System that where Congress has created a right and the remedy for this federally-created right is in equity then state statutes of limitations are inapplicable.

Russell v. Todd, 309 U.S. 281.

The United States Supreme Court in Holmberg v. Armbrecht was even more emphatic in their statement of the principle that a federally-created right for which the relief is in equity, state statutes of limitation are inapplicable. To quote from the opinion of the Court, "Traditionally and for good reasons, statutes of limitation are not controlling measures of equitable relief. ...This equitable doctrine is read into every federal statute of limitation. ...If Congress explicitly puts a limit upon the time for enforcing a right which it created, there is an end of the matter. ...The rub comes when Congress is silent. ...We do not have the duty of a federal court, sitting as it were as a court of a state, to approximate as closely as may be State law in order to vindicate without discrimination a right derived solely from a State. We have the duty of federal courts, sitting as national courts throughout the county to apply their own principles in enforcing an equitable right created by Congress. When Congress leaves to the federal courts the formulation of

remedial details, it can hardley expect them to break with historic principles of equity in the enforcement of federally-created equitable rights."

Holmberg v. Armbrecht, 327 U.S. 392 (1945).

The relief south in this matter is that of "specific performance" and equitable relief.

POINT III

TENURED EMPLOYMENT IS A "PROPERTY INTEREST" THAT IS PROTECTED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

For more than a quarter of a century , it has been a well-established uncontestable fact, repeatedly affirmed by the United States Supreme Court, that tenured employment represents a property interest that is protected by the Fourteenth Amendment to the United States Constitution. This tenured employment must be continuous unless formal charges "for cause" are presented and substantiated by a formal hearing that incorporates the fundamental elements of procedural and substantive "due process."

Indeed, the Federal Judicial System, has uniformly held at all levels that the right to remain in a provisional post receives this same protection of a tenured employee if there is (1) denial for First Amendment rights, (2) infringement of a property interest under the Fourteenth Amendment, or (3) deprivation of liberty under the Fourteenth Amendment.

Perry v. Sindermann, 408 U.S. 593, 92 S. Ct. 2694 (1972).

Board of Regents v. Roth, 408 U.S. 564, 92 S. Ct. 2701 (1972).

## CONCLUSION

The unlawful discriminatory acts of Defendant-Appellees are continuing acts and therefore do not fall within the time limits for filing of the Civil Rights Act. of 1964, as amended. The relief sort is equitable and thus the State Statute of Limitations do not apply in 28 U.S.C. § 1343 and 42 U.S.C. § 1983. Plaintiff-Appellant has life tenure at Harlem Hospital. Counsel for Defendant-Appelles admitted in their anser to Plaintiff-Appellant's complaint of March 19, 1974, and in open court at the hearing of December 13, 1974, that Plaintiff has life tenure as an Attending Surgeon.

For all of the foregoing reasons, the judgment of Mr. Justice Dudley B. Bonsal of the United States District Court, Southern District of New York, granting Defendant-Appellee's motion to dismiss should be reversed.

Dated: October 24, 1975

Respectfully submitted,

ARTHUR T. DAVIDSON, M. D. pro se
Attorney for Plaintiff-Appellant

Arthur T. Davidson, M. D. pro se
Of Counsel

UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT

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ARTHUR T. DAVIDSON, M. D.,

Plaintiff-Appellant

CIVIL ACTION
DOCKET #75 Civ. 7544

-against-

DONALD F. TAPLEY, M. D., Dean
Columbia University College of Physicians and
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KEITH REMTSMA, M. D., Director,
Department of Surgery Columbia University
College of Physicians, and Surgeons,

Defendant-Appellee

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1. Brief for Plaintiff-Appellant
2. Docket Entries
3. Index on Appeal
4. Judgment of United States District Court.

(8)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARTHUR T. DAVIDSON, M.D.,

Plaintiff,

-against-

DONALD F. TAPLEY, M.D., Dean, Columbia University College of Physicians and Surgeons,

and

KEITH REEMTSMA, M.D., Director, Department of Surgery Columbia University College of Physicians and Surgeons,

Defendants.

75 Civ. 1090

#42980

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
AUG 20 3 56 PM '75

MICROFILM
AUG 21 1975

ARTHUR T. DAVIDSON, M.D.
629 Eastern Parkway, Brooklyn, N.Y. 11213
Plaintiff pro se

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40 Wall Street, New York, N.Y. 10005
Attorneys for Defendants
EDWARD C. KALAIDJIAN, ESQ.,
ROBERT G. MAASS, ESQ.
Of Counsel

MEMORANDUM

BONSAL, D. J.

Dr. Arthur T. Davidson, pro se, filed the complaint herein on March 5, 1975, alleging discriminatory employment practices by defendants in violation of Title VII and section 1983 of the Civil Rights Act of 1964. Defendants move to dismiss the

complaint on several grounds, as discussed below.

Plaintiff commenced a prior action pro se on March 19, 1974, Davidson v. Quash, 74 Civ. 1262 (hereinafter "Quash"), against one Eugene Quash, M.D., then Acting Director of the Department of Surgery at Harlem Hospital. That action was deemed to have been filed against Columbia University, since Columbia had (and apparently still has) a contract making it responsible for the "contractual employment of the professional staff of Harlem Hospital", had had ample notice of the claims asserted therein, and apparently was representing the named defendant, Dr. Quash. By memorandum dated February 19, 1975, the Quash action was dismissed for plaintiff's failure to state a claim upon which relief could be granted, but plaintiff was given leave to file an amended complaint within twenty days of the entry of the order which was dated March 6, 1975.

On March 5, 1975, plaintiff filed the complaint in this action, which was originally assigned to Judge Tyler but reassigned to me as a related case to Quash. In a letter addressed jointly to Judge Tyler and me, dated March 25, 1975, plaintiff stated:

> "Judge Bonsal's order of March 6, 1975 dismissing the complaint terminated the Davidson v. Quash matter. In effect, there is nothing pending and no related cases."

However, subsequently in his memorandum in opposition to the instant motion to dismiss, plaintiff states:

> "This Complaint--75 Civ. 1090 is the complaint that the Court gave Plaintiff leave to file in Davidson v. Quash (75 Civ. 1262) [sic]."

Neither of plaintiff's statements is made in a notarized affidavit. Although plaintiff is not the usual pro se litigant, since he apparently is a highly qualified physician with a specialty in cancer research[1] and he earned a juris doctor degree from St. John's University School of Law in 1974, the Court will assume for the purpose of defendants' motion that the instant complaint is the amended complaint permitted by the Court's order of March 6, 1975. See Merckens v. F.I. DuPont, Glore Forgan & Co., Dkt. No. 74-2663 (2d Cir. Apr. 11, 1975).

Title VII Claim

Defendants move to dismiss the instant complaint for lack of subject-matter jurisdiction, first contending that this complaint was not filed within 90 days of the Equal Employment Opportunity Commission's ("EEOC") Notice of Right to Sue dated March 7, 1974, on which plaintiff alleges he relies for jurisdiction. See 42 U.S.C. §2000e-5(f)(1).

Since for the purpose of defendants' motion, plaintiff's complaint in this action, 75 Civ. 1090, is considered to be an amendment to his original complaint in Quash and the Quash complaint was timely filed on March 19, 1974, defendants' contention must be rejected. See Fed. R. Civ. P. 15(c).

1/ Plaintiff published an article in the November 1974 issue of the "Journal of the National Medical Association."

Defendants next contend that the instant complaint should be dismissed for lack of subject-matter jurisdiction because the charge filed by plaintiff with the EEOC on February 14, 1973 (which gave rise to the March 7, 1974 Notice of Right to Sue) was untimely since it was filed more than 180 days after the last allegedly discriminatory act occurred. See 42 U.S.C. §2000e-5(e). Defendants further contend that the last allegedly discriminatory act was the termination of plaintiff's employment with Harlem Hospital on September 30, 1969.

Plaintiff contends he satisfied the time limits for filing his EEOC charge since the defendants' discrimination against him was a continuing wrong. Plaintiff's complaint essentially alleges that in July 1967 he was replaced as Chief of Section B of the General Surgery Service at Harlem Hospital by a white surgeon, that on September 30, 1969 his employment and salary were terminated, and that each of these actions was racially motivated. Plaintiff contends that the foregoing are continuing wrongs since he alleged in his complaint that he

> "made repeated requests to Columbia University at four to six week intervals beginning in October 1969 and continuing to December 1972 for reemployment at Harlem Hospital in his previous capacity. Each request was denied."
> Complaint ¶14.

In addition, in his EEOC charge plaintiff had stated that the defendants' discrimination against him was "continuing" and that he "was discriminated against in job classification [and] denied reinstatement ...."

Job transfers, layoffs and terminations of employment have each been held to be isolated and "completed" acts. Molybdenum Corp. v. E.E.O.C., 457 F.2d 935 (10th Cir. 1972); Loo v. Gerarge, 374 F.Supp. 1338 (D. Hawaii 1974); Gordon v. Baker Protective Services, Inc., 358 F.Supp. 867 (N.D. Ill. 1973); Guerra v. Manchester Terminal Corp., 350 F.Supp. 529 (S.D. Tex. 1972); Younger v. Glamorgan Pipe & Foundry Co., 310 F.Supp. 195 (W.D. Va. 1969). See Cox v. United States Gypsum Co., 409 F.2d 289 (7th Cir. 1969); Phillips v. Columbia Gas of West Virginia, Inc., 347 F.Supp. 533 (S.D. W.Va. 1972).[2/]

It appears from the record submitted that the last act of discrimination alleged was plaintiff's termination on September 30, 1969. This was a completed act as of that date. Plaintiff's contention that defendants have continued to discriminate against him by refusing to rehire him must be rejected. Plaintiff has offered no evidence nor made any allegations that he applied formally for his previous position. Moreover, he offers no support in his submissions on this motion of any specific instances of his "repeated requests" to be rehired. The only evidence discovered by the Court is contained in the opinion of

2/ Many decisions holding to the contrary that layoffs are continuing wrongs rely significantly either upon the existence of a labor-management contract in force which requires defendants to follow the allegedly discriminatory course or upon a stated policy whereby subsequent recalls were expected and later in fact made. See, e.g., Cox v. United States Gypsum Co., 409 F.2d 289 (7th Cir. 1969); Sciaraffa v. Oxford Paper Co., 310 F.Supp. 891 (D. Me. 1970). Plaintiff alleges neither of these circumstances here.

the State Division of Human Rights, dated August 7, 1973, wherein the Regional Director wrote:

> "The respondents established in fact that the complainant had not made a re-application for an assignment to their general surgical service.
>
> "The only document that could be construed as a re-application was a letter submitted by the respondents received from the complainant dated June 28, 1972 which read, 'Dear Dr. Ferrer: ... I would like to discuss with you ... my returning to Harlem Hospital ....'" (Emphasis added.)

Even if the June 28, 1972 letter would constitute an application for reemployment, it appears that plaintiff failed to file his EEOC charge within the requisite 180 days.[3/] While the administrative findings are not binding on this Court, they do represent conclusions reached after two days of hearings.

Timely filing of an EEOC charge is a jurisdictional prerequisite to a suit in this Court (DeMatteis v. Eastman Kodak Co., 511 F.2d 306, 309 (2d Cir. 1975)) and the legislative intention to establish a reasonable statute of limitations may not be frustrated by giving plaintiff a perpetual right to litigate a time-barred claim. Loo v. Gerarge, supra. Accordingly, plaintiff's Title VII claim is dismissed.

Section 1983 Claim

Defendants also contend that plaintiff's §1983 claim is time-barred.

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3/ In Quash, plaintiff alleged he had made such a request in July, 1972. The Court assumes plaintiff mistakenly referred to the June 28, 1972 letter.

As noted above, the last act complained of occurred on September 30, 1969 and this suit was not initiated until March 19, 1974.

The Court of Appeals has held that in §1983 actions where the alleged discrimination occurred in New York, the three-year statute of limitations of §214(2) of the New York Civil Practice Law and Rules, which governs "liability created by statute," applies. See, e.g., Kaiser v. Cahn, 510 F.2d 282, 284-85 (2d Cir. 1974). Accordingly, plaintiff's §1983 claim, asserted more than three years after the last alleged act of discrimination, is untimely and must be dismissed.

Indeed, it is noted, but without actually deciding, that plaintiff's §1983 claim appears to be legally insufficient since plaintiff has alleged no facts evidencing state action on the part of the defendants. See Weise v. Syracuse University, Dkt. No. 74-1977 (2d Cir. July 14, 1975); Bond v. Dentzer, 494 F.2d 302 (2d Cir. 1974), cert. denied, 419 U.S. 837 (1974); Wahba v. New York University, 492 F.2d 96 (2d Cir. 1974), cert. denied, 419 U.S. 874 (1974); Grafton v. Brooklyn Law School, 478 F.2d 1137 (2d Cir. 1973). See also Blouin v. Loyola University, 506 F.2d 20 (5th Cir. 1975).

Finally it is noted that plaintiff still may have recourse in the state courts where, with the assistance of counsel, he is litigating claims in pending actions concerning his Harlem Hospital employment.

Accordingly, defendants' motion to dismiss is granted. Settle order on notice.

Dated: New York, N.Y.
August 20, 1975.

Robert B. Bonsal
U. S. D. J.

STATE OF NEW YORK, COUNTY OF WESTCHESTER ss.:

The undersigned, an attorney admitted to practice in the courts of New York State, pro se

Check Applicable Box

☐ Certification By Attorney — certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

☒ Attorney's Affirmation — shows: deponent is ARTHUR T. DAVIDSON, M. D. pro se the attorney(s) of record for Plaintiff-Appellant in the within action; deponent has read the foregoing Brief for Plaintiff-Appellant and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

information and belief

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated: October 24, 1975

The name signed must be printed beneath

ARTHUR T. DAVIDSON, M. D. pro se

STATE OF NEW YORK, COUNTY OF ss.:

Check Applicable Box

☐ Individual Verification — being duly sworn, deposes and says: deponent is the in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

☐ Corporate Verification — the of a corporation, in the within action; deponent has read the foregoing and knows the contents thereof; and the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because is a corporation and deponent is an officer thereof.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on 19

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF WESTCHESTER ss.:

ARTHUR T. DAVIDSON, M. D. pro se being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at 629 Eastern Parkway, Brooklyn, New York

Check Applicable Box

☐ Affidavit of Service By Mail — On October 24, 1975 deponent served the within Brief for Plaintiff-Appellant upon THACHER, PROFFITT & WOOD attorney(s) for Defendant-Appellees in this action, at 40 Wall St., New York, N. Y. the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

☐ Affidavit of Personal Service — On 19 at deponent served the within upon the herein, by delivering a true copy thereof to h personally. Deponent knew the person so served to be the person mentioned and described in said papers as the herein.

Sworn to before me on 19

The name signed must be printed beneath

ARTHUR T. DAVIDSON, M. D., pro s

NOTICE OF ENTRY

Sir:-Please take notice that the within is a *(certified)* true copy of a
duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

*Attorney for*

*Office and Post Office Address*

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19

at M.

Dated,

Yours, etc.,

*Attorney for*

*Office and Post Office Address*

To

Attorney(s) for

Index No. -7544 Year 19

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

ARTHUR T. DAVIDSON, M. D.,
Plaintiff-Appellant

-against-

DONALD F. HADLEY, M. D., Dean, Columbia University College of Physicians & Surgeons,

and

KEITH REEMTSMA, M. D., Director, Department of Surgery Columbia University College of Physicians and Surgeons,

Defendant-Appellees

BRIEF FOR PLAINTIFF-APPELLANT

ARTHUR T. DAVIDSON, M. D. pro se

*Attorney for* Plaintiff-Appellant

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(212) 756-1706

To THACHER, PROFFITT & WOOD
40 WALL ST., NEW YORK, N.Y.

Attorney(s) for Defendant-Appellee

Service of a copy of the within

is hereby admitted.

Dated,

.....

Attorney(s) for

1500-©1973 LIUS BLUMBERG, INC. 80 EXCHANGE PLACE, N. Y. 10004